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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/524,969	02/19/2005	Seon-Pyo Hong	DI-001	2937				
38051 KIRK HAHN 14431 HOLT AVE SANTA ANA, CA 92705	7590 06/18/2007		<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">WINSTON, RANDALL O</td></tr></table>		EXAMINER		WINSTON, RANDALL O	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/524,969	<b>Applicant(s)</b> HONG ET AL.	
	<b>Examiner</b> Randall Winston	<b>Art Unit</b> 1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of the election of species requirement in its response on 05/09/2007 of 1) *Prunus Armeniaca* is acknowledged. The traversal is based on the grounds that only claim 30, and not claims 29 & 31-53, should be restricted to the election of *Prunus Armeniaca*. The examiner is requested to re-evaluate the Restriction Requirement.

Applicant's argument is not found persuasive because claim 29 depends on and/or further limits claim 28. Therefore, since claim 29 depends on and/or further limits claim 28, claims 29 & 31-53 are also restricted to applicant's election of *Prunus Armeniaca*.

The election of species requirement is still deemed proper and is therefore made final.

Claims 28-53 and the elected species of a *Prunus Armeniaca* will be examined on the merits.

### ***Claim Objections***

Claims 28 and 30 are objected to because of the following informalities: In claims 28 and 30 the Latin names of (*Prunus*, *Prunus Persicae* and *Prunus Armeniaca*) should be italicized. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 28-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 28-53 are rendered exceedingly vague and indefinite for reasons to numerous to individually mention. (please note: it is very unclear to Examiner of how each claimed extraction step, especially the extraction steps of claim 28 step a-h and claim 29 i-n, correlates to preamble objective of obtaining an amygdalin. Therefore, claims 28-53 are rendered exceedingly vague and indefinite for the numerous reasons below.)

Claim 28 step d is rendered vague and indefinite because the term "extraction method." It is unclear to examiner what applicant means from the term "extraction method" because it appears to examiner that all the recited above steps in the claims are extraction steps. Clarification is required.

Claim 28 step e is rendered vague and indefinite because of the term "extraction solvent" and "obtaining a supernatant." It is unclear to examiner whether the extraction solvent step limits claim 28 step c's extraction method and/or solvent or claim 28 step e's extraction method. Clarification is required. Furthermore, how does obtaining the supernatant correlates back to the preamble of obtaining an amygdalin? Clarification is required.

Claim 28 step f recites the limitation "supernatant." There is insufficient antecedent basis for this limitation in the claim.

Claim 28 step g recites the limitation "concentrated supernatant." There is insufficient antecedent basis for the limitation in the claim.

Claim 28 step h is rendered vague and indefinite because of the phrase "obtaining a dried extract of the seed from the fruit of the genus *Prunus*." It is unclear to examiner of what above recited steps in claim 28 steps a-g does claim 28 step h correlates to and/or further limits. Does claim 28 step h further limit step d or step e etc? It appears to examiner that step h is further limiting step d. Is examiner correct? Furthermore, how does step h correlate to the preamble of obtaining an amygdalin? It appears to examiner that claim 29 step n is applicant's final step of obtaining an amygdalin instead of claim 28 step h or being applicant's final step of obtaining an amygdalin. Clarification is required.

Claim 29 step l is rendered vague and indefinite because of the phrase "mixing the dried extract of the seed from the fruit of the genus *Prunus* in water." It is unclear to examiner of what above recited steps in claim 28 steps a-h does claim 29 step l correlates to and/or further limits. Does claim 29 step l further limit claim 28 step c or claim 28 step h? Clarification is required.

Claim 37 is rendered vague and indefinite because of the phrase "where the water contains at least one acid selected from the group consisting of citric acid, acetic acid, and ascorbic." It is unclear to examiner whether the extraction solvent only

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contains water or whether the extraction solvent contains a mixture of water and acid?

Clarification is required.

All other claims depend directly or indirectly from the rejected claims are, therefore, also rejected under 35 U.S.C. 112, second paragraph for the reasons set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Winston whose telephone number is 571-272-0972. The examiner can normally be reached on 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



CHRISTOPHER R. TATE  
PRIMARY EXAMINER